

IOWA ASSOCIATION OF SCHOOL BOARDS
BOARD OF DIRECTORS MEETING
JANUARY 19-20, 2010
Iowa Association of School Boards
6000 Grand Avenue, Des Moines, IA

Participants:

Russ Wiesley	Lee Ann Grimley	Jack Hill
Bill Morain	Amy Jurrens	Susan Shaw
Roger Shaffer	Mike Sexton	Marcia DeZonia
Katie Temple	Rich Clewell	Tom Wieseler
Scott Hansen	Steve Hoch	George Wheeler
Roy Lamansky	Maxine Kilcrease	Darlene Blair
Mary Delagardelle	Kevin Schick	LeGrande Smith
Mary Gannon	Mary Jane Vens	

Issue/Process	Tabs/Handouts	Lead	Time	Action/ Information
Lunch – 12:00 p.m. We will also be taking board member photos during this time			60 minutes	
1. Call to Order – 1:00 p.m. Approval of Agenda		President Wiesley	2 minutes	
2. District Director Election Results Review and Certify December 2009 District Director Election Results	2.01 Canvas of IASB Board Election Results	President Wiesley	2 minutes	Action
3. Introduction of Board Members <u>Re-Elected Directors</u> Marcia DeZonia, Gilbert, DD #5a (3 years) Scott Hansen, Griswold, DD#7 (3 years) <u>Newly Elected Directors</u> Roger Shaffer, Sumner, DD#3 (3 years) Richard Clewell, Davenport, DD#6a (1 year) Steve Hoch, Centerville, DD#8 (3 years) George Wheeler, Ft. Madison, DD#9 (1 year)		President Wiesley	15 minutes	Information
4. Consent Agenda NSBA Delegate Assembly Delegates President, President-elect, Past President Treasurer (alternate)	4.01 Board Minutes	President Wiesley	2 minutes	Information
5. Future Planning		Maxine Kilcrease Mary Jane Vens	30 minutes	Information

6. Organizational/Operational Chart	6.01 Executive Council Charter	Mary Delagardelle	15-20 minutes	Information
	6.02 Cabinet Charter			
Afternoon Break – We will also be taking board member photos during this time			15 minutes	
7. Review of Fiduciary Responsibility	7.01 Overview of Fiduciary Duty	Beth Grob, Ahlers & Cooney, P. C.	30 minutes	Information
8. Conflict of Interest Form	8.01 Conflict of Interest Form	LeGrande Smith	10 minutes	Information
9. Approve Business Plan	9.01 Plan	Maxine Kilcrease Kevin Schick	10-15 minutes	Action
	9.02 Process			
10. Better Boardsmanship Award		President Wiesley	10 minutes	Action
11. Superintendent Search Firm		Mary Delagardelle	15 minutes	Information
12. Status of FY09 IASB Consolidated Audit Report		Kevin Schick	20-25 minutes	Information
13. Adjourn	❖ Remodeling Walk-through – 5:00 p.m.	All		
	❖ Dinner – 6:00 p.m.			
WEDNESDAY, JANUARY 20, 2010				
14. Call to Order – 8:00 a.m.		President Wiesley		
15. Approval of Policies Final Reading of Code 212- Nepotism Final Reading of Code 201.1R15 – Travel Expenses First Reading of Code 203.1R19 – Credit Cards	15.01 Code 212 – Nepotism 15.02 Code 201.1R15 – Travel Expenses 15.03 Code 201.1R19 – Credit Cards	Mary Gannon	10 minutes	Action
16. Legislative Update		Mary Gannon	30-45 minutes	Information
17. Business Report LGS PaySchools Building Lease ISCAP ISEBA Pension		Kevin Schick	60-90 minutes	Information
18. Legal Update		LeGrande Smith	5-10 minutes	Information
19. Recommendation: One-Day Board Meeting vs. Two-Day Board Meeting	19.01 Memo-Discussion of One-Day Board Meetings 19.02 Board Meeting Dates for 2010	Maxine Kilcrease	5-10 minutes	Action

20. NSBA Annual Conference- April 10-12, 2010		Maxine Kilcrease	5 minutes	Information
21. Board Member Comments Scott Hansen/IASB Executive Committee		President Wiesley	5-10 minutes	Information
22. Executive Director Comments Introduction of new staff		Maxine Kilcrease	30 minutes	Information
23. Good News	23.01 Toolkit 23.02 Minutes-GLBT Youth In Iowa Schools Task Force Executive Committee Meeting	Maxine Kilcrease	n/a	Information
24. Other Business				
25. Adjourn				

Recorder: Darlene Blair

Facilitator: President Russ Wiesley

Next meeting date: March 10-11, 2010

Agenda items for next meeting:

WHAT ARE IASB BOARD MEMBERS RESPONSIBILITIES



Elizabeth A. Grob
Ahlers & Cooney, P.C.

100 Court Avenue, Suite 600
Des Moines, IA 50309-2231
Telephone: 515-243-7611
FAX: 515-243-2149
bgrob@ahlerslaw.com

WHAT ARE IASB BOARD MEMBERS RESPONSIBILITIES?



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- Ahlers & Cooney does not represent IASB.
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WHAT ARE IASB BOARD MEMBERS RESPONSIBILITIES?



Vital characteristics:

- Competence
- Integrity
- Ethical Sensitivity
- Tact
- Communication

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WHAT ARE IASB BOARD MEMBERS RESPONSIBILITIES?



Lack of such characteristics :

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WHAT ARE IASB BOARD MEMBERS RESPONSIBILITIES?



■ SPECIFIC POINTS:

- Approving IASB's philosophy and mission.
- Selecting, monitoring, evaluating, compensating and, if necessary, replacing management and ensuring management succession.
- Reviewing and approving management's strategic and business plans, including developing a depth of knowledge of IASB, understanding and questioning the assumptions upon which the plans are based, and reaching an independent judgment on the probability that the plans can be realized.
- Reviewing and approving IASB's financial objectives, plans, and actions.
- Reviewing and approving material transactions not in the ordinary course of business.
- Monitoring organizational performance, including overseeing operating results on a regular basis to evaluate whether the organization's activities are being properly managed.
- Ensuring ethical behavior and compliance with laws and regulations, auditing and accounting principles, and IASB's governing documents.

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WHAT ARE IASB BOARD MEMBERS RESPONSIBILITIES?



■ SPECIFIC POINTS:

- Assessing the Board's effectiveness in fulfilling Board responsibilities.
- Performing other functions as prescribed by law, assigned to the Board in the governance documents, or required/desirable in the course of governing IASB's affairs.

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WHAT ARE IASB BOARD MEMBERS RESPONSIBILITIES?



■ WHAT ARE THE RISKS ASSOCIATED WITH SERVING ON A BOARD?

- *Governance is different than management. It is proactive oversight.*
- *Governance Environment. Put your skills, knowledge and experience into practice. Does the Board update itself on governance issues, best practices and conduct which results in litigation?*
- *Board Composition. Do other board members have the skills necessary to be effective directors?*
- *Board Organization and Leadership. How is the board selected? What Board committees exist? Does the board leadership promote and observe good governance practices?*
- *Planning. Does IASB have a plan that it follows? Does it reflect the mission and values of IASB? Is there an adequate assessment of IASB's strengths weaknesses, opportunities and competition? Does it adequately balance short and long term value creation and performance?*

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WHAT ARE IASB BOARD MEMBERS RESPONSIBILITIES?



- *Conflicts of interest. Is the board truly sensitive to conflicts of interest and properly cautious in dealing with them? Be extremely cautious about an environment where relationships may, in actuality or perception, compromise board objectivity.*
- *Accountability. Does the board effectively evaluate management and itself? Does the board appropriately hold management accountable for performance? Is evaluation and feedback embraced as a means of enhancing board and management performance?*
- *Board Duties. Does the board understand its legal duties of good faith, care, loyalty, compliance and oversight? How is the board educated regarding these duties? Are there procedures and processes in place to assure that it is properly performing its responsibilities? Is the board regularly advised of issues that arise?*
- *Director Protection. Is the board sufficiently aware of the risks of service? Are the risks openly discussed? Are directors appropriately indemnified from and insured against liability?*

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WHAT ARE IASB BOARD MEMBERS RESPONSIBILITIES?



■ WHAT HAPPENS WHEN BOARDS AND/OR ENTITIES GO BADLY?

- *Failure to understand the oversight role.*
 - *Good managers but not good overseers.*
- *Failure to understand what it means to be a fiduciary.*
 - *Linked to the duty of loyalty - failure to place interest of organization first.*
- *Overly reliant on management and passive oversight role.*
 - *Board ended up working for management.*
- *Excessive reliance on management and outside consultants.*
 - *Blind faith in CEO/management.*

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WHAT ARE IASB BOARD MEMBERS RESPONSIBILITIES?



1. *QUESTION:* Am I truly aware of the scope of the fiduciary duty I have to IASB?

ANSWER: I am aware that this fiduciary duty, at minimum, requires active, knowledgeable participation in the management and policy direction of IASB.

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WHAT ARE IASB BOARD MEMBERS RESPONSIBILITIES?



2. *QUESTION:* How do I fulfill this fiduciary duty?

ANSWER: I need to know enough about what goes on at IASB to calmly and simply explain to someone who asks why IASB is doing or not doing something or other.

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WHAT ARE IASB BOARD MEMBERS RESPONSIBILITIES?



3. *QUESTION:* Can I explain what is described on each and every page of the Annual Report?

ANSWER: I don't need to be a CPA, but I need to be able to articulate generally what is being reported as important financially and what the major projects or initiatives have been and are going to be in the near future. I should also be able to explain what is different from last year's Annual Report.

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WHAT ARE IASB BOARD MEMBERS RESPONSIBILITIES?



4. **QUESTION:** Does IASB have a written investment policy for IASB funds?

ANSWER: Yes. (There is no other acceptable answer.) I should be able to describe the Board's tolerance for risk in investments.

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WHAT ARE IASB BOARD MEMBERS RESPONSIBILITIES?



5. **QUESTION:** Can I explain IASB's revenue sources and costs in three sentences or less?

ANSWER:

- I should be able to name the big-ticket items for which IASB is charged and how the fee is calculated (i.e., interest rate reduction - most service provider fees - or outright fee - legal and auditing fees).
- I also should be able to knowledgeably discuss the biggest things impacting our costs right now and for the next five years.
- I should know all of IASB's revenue sources.
- I should know how IASB compares to similar entities.

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WHAT ARE IASB BOARD MEMBERS RESPONSIBILITIES?



6. **QUESTION:** Can I describe how our management is organized from the top down?

ANSWER: I know who makes up our management team, and in general how day to day decisions are made and reviewed. If a participant has questions I can't answer, I can refer them to the right manager with the right information, so that participants avoid the sense of getting the run-around.

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WHAT ARE IASB BOARD MEMBERS RESPONSIBILITIES?



7. *QUESTION: Has IASB asked for and understood regular updates from legal counsel on legal or regulatory matters which affect IASB, so that I can at least provide "process answers" if questioned? [NOTE: Directors need to be appropriately protective about attorney-client privileged information or other confidential information they receive in the course of their service so as not to endanger IASB's legal or regulatory posture in any pending matter, and so as not to divulge appropriately confidential information in violation of individual privacy rights.]*

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WHAT ARE IASB BOARD MEMBERS RESPONSIBILITIES?



ANSWER: Yes, because I have been appropriately advised about my obligations and I understand my duty to keep confidential information confidential. Specifically, I understand that there are times when I must refuse to answer certain questions even though I know the answers, and that I must refrain from volunteering comments in public conversations based on information I know to be confidential.

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WHAT ARE IASB BOARD MEMBERS RESPONSIBILITIES?



8. *QUESTION: Do I regularly obtain or receive information about pending legislation that affects IASB, so that I can appear reasonably knowledgeable about the issues involved when they come up?*

ANSWER: Yes, because someone in IASB is assigned to keep track of such issues and disseminate such information as is necessary and appropriate.

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9. **QUESTION:** Do I know the managers and other Directors on a personal/ professional basis well enough to detect when off-the-job matters may be negatively affecting performance?

ANSWER: Yes. We strive for the kind of management and board meeting environment that allows managers and board members to get to know each other well enough to sense when any of us seems out of character due to outside influences. I do not want to learn for the first time by reading newspaper accounts about Directors or members of management who have gone astray on or off the job.

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WHAT ARE IASB BOARD MEMBERS RESPONSIBILITIES?



10. **QUESTION:** Does IASB conduct annual, meaningful service provider evaluations, inform those evaluated of the results, keep good records and follow-up on problems that come to light?

ANSWER: Yes. (There is no other acceptable answer).

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11. **QUESTION:** Am I pro-active in board meetings? Do I ask meaningful questions. Do I make useful and practical comments. In general, do I support and personally promote a forward-looking "head's up" attitude in which I help anticipate and identify significant issues before they hit rather than after the damage is done? Or am I just putting in time?

ANSWER: I actively and positively participate in meetings and help promote pro-active board policy making and staff management.

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12. **QUESTION:** Do I know what kind of money is being spent for service providers?

ANSWER: Yes. (There is no other acceptable answer).

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13. **QUESTION:** Do I know what the service providers are doing to be more efficient and save costs?

ANSWER: Yes. We have created an environment in which new ideas and cost saving suggestions are invited, promoted and rewarded. It is an important part of our corporate culture. Public officials must acknowledge the reality that more than ever before, we must rise to the challenge of doing more and more with less and less.

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WHAT ARE IASB BOARD MEMBERS RESPONSIBILITIES?



14. **QUESTION:** Have I ever read the statutes and documents that describe the powers and obligations I have?

ANSWER: Yes. (There is no other acceptable answer).

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WHAT ARE IASB BOARD MEMBERS RESPONSIBILITIES?



15. **QUESTION:** Have I ever read the insurance contract provisions that insure me and IASB in the event of litigation over my decisions as a board member?

ANSWER: Yes. I know what "errors and omissions" I might make that are covered, and just as important, those that are NOT covered.

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WHAT ARE IASB BOARD MEMBERS RESPONSIBILITIES?



16. **QUESTION:** Do I understand how IASB is audited each year?

ANSWER: Yes. I have met at least once with our auditors about the audit process. The Audit Committee of the board and the board meet annually with the auditors outside the presence of staff to discuss issues to highlight. I understand the meaning of fraud and how to prevent, deter or detect it.

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17. **QUESTION:** Do I know about the general financial condition of IASB?

ANSWER: Yes. I regularly and periodically review the administrative budget and fund balances.

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WHAT ARE IASB BOARD MEMBERS RESPONSIBILITIES?



18. **QUESTION:** Does our board have an annual agenda or planning calendar?

ANSWER: Yes. I can show the public a realistic set of goals for IASB in the next 12 to 18 months.

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WHAT ARE IASB BOARD MEMBERS RESPONSIBILITIES?



19. **QUESTION:** Does IASB regularly communicate with participants?

ANSWER: Yes, by way of a newsletter, proxies, or other means to extend genuine invitations for feedback. And we pay attention to the feedback.

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WHAT ARE IASB BOARD MEMBERS RESPONSIBILITIES?



20. **QUESTION:** If I got a call from the radio station or newspaper about a suddenly hot issue with respect to IASB operations, would I know how to handle it?

ANSWER: Yes. We have discussed this possibility on management and board level, and we have designated one specific person, board member or legal counsel to which to refer such questions. Moreover, we all understand the value of giving "process answers" that convey useful information without painting IASB into a corner or divulging legitimately confidential information about employees or board members.

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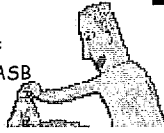
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WHAT ARE IASB BOARD MEMBERS RESPONSIBILITIES?



CASES OF INTEREST:

LESSON LEARNED: The standard of care that must be exercised by an IASB Board Member.



"[It is a] breach of fiduciary duty [to fail] to 'take the same care of its property that men of average prudence take of their own property.'"

In re First Cent. Financial Corp. 269 B.R. 502, 513 (Bkrtcy.E.D.N.Y.,2001)

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QUESTIONS?



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Overview of a Director's Fiduciary Duty

Prepared for the Board of Directors of the Iowa Association of School Boards,

By LeGrande Smith, General Counsel to the Board

I. Introduction.

Each Director of the Iowa Association of School Boards ("IASB"), as a matter of statutory and common law, is a *fiduciary* to IASB and owes IASB certain *fiduciary duties*. A "fiduciary" (as a noun) is a person upon whom rests a duty, because of some undertaking, to act on behalf of another person or entity, and for their benefit, in all matters related to that undertaking. An individual acts in a *fiduciary capacity* when she, having undertaken to act on behalf of another person or entity, transacts business, or handles money (or property), on behalf of that person or entity. (Common examples of people acting in a fiduciary capacity include corporate officers and directors, public accountants, attorneys, brokers, executors, guardians, public officers, and trustees).

In the case of IASB, each Director, as a fiduciary and when acting as a Director, must subordinate his or her personal interests to the best interests of the IASB. Consequently, *fiduciary duties* encompass the duties of good faith, care, loyalty, honesty, special confidence, candor, and the like.

"[D]irectors and officers of a corporation have a fiduciary duty to act in all things wholly for the benefit of the corporation." Midwest Janitorial Supply Corp. v. Greenwood, 629 N.W.2d 371, 375 (Iowa 2001).

II. Statutory Standards.

Iowa's statute prescribing standards of conduct for directors of non-profit corporations (Iowa Code 504.831 *ff.*) mandates that each director, when discharging director duties, must

act (1) in good faith, (2) in a manner the director reasonably believes to be in the corporation's best interests, and (3) with the care that a person in a like position would reasonably believe appropriate under similar circumstances.

In discharging their duties, *unless they have knowledge that makes reliance unwarranted*, directors are entitled to rely upon information (including financial statements and data), opinions, reports, and/or statements provided by (1) officers and employees of the corporation, (2) legal counsel, (3) public accountants, and/or (4) other persons as to (i) matters the directors believe are within the particular person's professional or expert competence, and (ii) matters as to which the particular person merits confidence.

III. The Duties of a Director.

"Iowa law is clear that a director or directors of a corporation owe the corporation complete loyalty, honesty, and good faith." Mitchellville Co-op. v. Indian Creek Corp., 469 N.W.2d 258, 263 (Ct. App. Iowa 1991). Iowa law also requires directors to fulfill the duty of care: "The duty of care requires each director to perform the duties of a director . . . with such care as an ordinarily prudent person in a like position would use under similar circumstances." Dennison v. Mediacomm, Inc., 2006 WL 1627998, *2 (Ct. App Iowa 2006).

A. Duty of Loyalty—*Being a Friend to the Corporation.*

In its most general form the duty of loyalty inquires whether the Director has acted in *bad faith*, an expression that has come to mean actions or decision-making that serve the Director's narrow, personal interests and, generally, produce a result that injures, or is in conflict with, the corporation's best interests. The basic legal principal, or injunction, to be observed here is a negative one: the Director shall not use a corporate position for individual personal advantage.

Consequently, the duty of loyalty requires the Director to act in a manner that the director reasonably believes to be in the best interests of the corporation. There are two aspects to the duty of loyalty: first, adhering to the corporation's stated purposes, and second, avoiding conflicts of interest.

1. Loyalty through *Advancing IASB's Purpose*.

To satisfy the duty of loyalty, each Director should believe, in good faith, that his decisions and actions as a Director advance the stated purposes of the corporation. In IASB's case, the Articles of Incorporation describe its purposes as follows:

The purposes for which this corporation is formed are to develop, strengthen, and correlate the work of the school boards of the public schools in their efforts to promote the educational interests of the state of Iowa, and to provide such services as will enhance these purposes.

2. Loyalty through *Avoiding Conflicts of Interest*.

A potential director "conflict of interest" does not exist in a vacuum. The Iowa Code defines director conflicts of interest only in relation to a *particular transaction*: "A conflict of interest *transaction* is a transaction with the corporation in which a director of the corporation has a *direct* or *indirect* interest." I.C. 504.833.1. (Emphasis added). Where a corporation enters a transaction which is determined to have been a "conflict of interest transaction" (because one of the corporation's directors had a personal direct or indirect interest) the transaction may be voidable by the corporation if it was not fair to the corporation at the time it was entered.

(i) Direct Conflict of Interest.

A direct conflict of interest will arise in relation to a transaction where the corporation (on whose board the director serves) is contracting directly with the director *as a natural person*. "A direct conflict of interest arises when the transaction is personally between the director and the corporation on whose board she serves." Cox, Hazen, & O'Neil,

CORPORATIONS 209 (1997). For example, when a director negotiates his compensation for serving on the board, or personally sells property to (or buys property from) the corporation, the transaction raises a direct conflict of interest.

(ii) Indirect Conflict of Interest.

The Iowa Code defines, although not with complete precision, the circumstances under which a director has an “indirect” interest in a transaction:

For the purposes of this section [504.833], a director of the corporation has an *indirect interest* in a transaction under either of the following circumstances:

- a. If another entity in which the director has a **material interest** or in which the director is a **general partner** is a party to the transaction.
- b. If another entity of which the director is a **director, officer, or trustee** is a party to the transaction.

I.C. 504.833.3(a)-(b)(Emphasis added).

Consequently, it is clear that if the corporation’s transaction is with another legal entity, and a director holds the position of general partner, director, officer, or trustee with the other entity, the director has an indirect conflict of interest with respect to the transaction.

“Material interest” is not defined by Chapter 504 of the Iowa Code. However, the term *material financial interest*, used elsewhere in the Iowa Code and regulations related thereto, indicate that a 10% or greater interest would certainly qualify as a material financial interest.

(iii) **Director Conflict of Interest Transactions—Conclusion.**

To avoid *direct* conflict of interest transactions, a director should not transact personal business, *i.e.*, sell property to, or purchase property from, the corporation. To avoid *indirect* conflict of interest transactions, a director should make full disclosure of his/her relationship to, or interest in, any entity that the corporation is contemplating transacting business with. Further, if the corporation pursues such transaction after the director has disclosed the interest,

the director should recuse himself or herself from any of the discussions, negotiations, or board votes associated with the transaction. After the director's recusal, the Board should ensure that the transaction is fair to the corporation before approving it.

B. Duty of Good Faith—*Being Honest With the Corporation.*

"Good faith is an intangible and abstract quality with no technical meaning or statutory definition, and it encompasses, among other things, an honest belief, the absence of malice and the absence of design to defraud or to seek an unconscionable advantage, and an individual's personal good faith in concept of his own mind and inner spirit. . . . In common usage this term is ordinarily used to describe that state of mind denoting honesty of purpose, freedom from intention to defraud, and, generally speaking, means being faithful to one's duty or obligation." Blacks Law Dictionary 693 (6th ed. 1990). Iowa case law, arising in various circumstances, assigns the following meanings to "good faith": good faith rests on subjective honest belief; it relates to the actual, existing state of mind, and the freedom from a design to defraud; it requires honesty in fact in the conduct or transaction concerned.

[A] subjective focus is more consistent with the common, ordinary meaning of the phrase "good faith." See State v. Kidd, 562 N.W.2d 764, 765 (Iowa 1997)("In the absence of a legislative definition of a term or a particular meaning in the law, we give words their ordinary meaning."); Security State Bank, 554 N.W.2d at 894 (giving word "arbitrary" in section 490.1331 its ordinary meaning). The following dictionary definition of "good faith" encompasses the essential elements of that term for purposes of chapter 490: **"In common usage this term is ordinarily used to describe that state of mind denoting honesty of purpose, freedom from intention to defraud, and, generally speaking, means being faithful to one's duty or obligation."** *Black's Law Dictionary* 693; accord *Webster's Third New International Dictionary* 978 (defining "good faith" as "a state of mind indicating honesty and lawfulness of purpose ...: belief that one's conduct is not unconscionable or that known circumstances do not require further investigation: absence of fraud, deceit, collusion, or gross negligence").

Sieg Co. v. Kelly, 568 N.W.2d 794, 804-805 (Iowa 1997).

C. **Duty of Care—*Paying Appropriate Attention to the Corporation.***

The duty of care relates to the *attentiveness* and *competence* employed in matters of corporate business. “The duty of care requires each director to perform the duties of a director . . . with such care as an ordinarily prudent person in a like position would use under similar circumstances.” Dennison v. Mediacomm, Inc., 2006 WL 1627998, *2 (Ct. App Iowa 2006). The proper exercise of the duty of care requires each Director to be attentive to the corporation’s business, including becoming reasonably informed of its affairs and the decisions facing them (*i.e.*, holding and attending meetings with reasonable regularity), and that they have a rational basis for their decisions. In exercising the duty of care, a director is entitled to rely (unless they believe reliance unwarranted) on the opinions, reports, representations and information (including financial statements and data) provided by officers and employees of the corporation, legal counsel and public accountants engaged by the corporation, and experts the directors believe have special professional or expert competence which merits reliance.

IV. **The Benefits and Safety That Inure From the Vigilant Observance of Fiduciary Duties.**

Observance of the fiduciary duties of good faith, loyalty, and care:

1. Provides the proper corporate and board-level environment for the ultimate success of the enterprise.
2. Enables IASB to accomplish its stated purposes and mission, thereby benefiting members and the public.
3. **Provides safety from, and a limitation of, liability for actions taken as a director.** By observing and fulfilling the duties of good faith, loyalty, and care, as required by the Iowa Code, directors benefit from limitations on their personal liability for actions taken (or failure to take action) as directors. The Iowa Code provides that a director of a non-profit corporation shall not be

liable to the corporation or its members “for any decision to take or not to take any action, or any failure to take any action, as a director,” *unless* the party asserting liability can establish (among other things) such things as the following:

- a. The director did not act in good faith (I.C. 504.832(1)(b)(1)(*violation of the duty of good faith*);
- b. The director rendered a decision that the director did not reasonably believe to be in the best interests of the corporation (I.C. 504.832(1)(b)(2)(a) (*violation of the duties of good faith, loyalty*);
- c. The director rendered a decision upon a matter as to which the director was not informed to an extent the director reasonably believed appropriate in the circumstances (I.C. 504.832(1)(b)(2)(b)(*violation of the duty of care*);
- d. Lack of objectivity due to director’s familial, financial, or business relationship with, or lack of independence due to the director’s domination or control by, another person having a material interest in the challenged conduct (I.C. 504.832(1)(b)(3)(*violations of the duties of good faith, loyalty*);
- e. Sustained failure of the director to devote attention to the ongoing oversight of the business and affairs of the corporation, etc. (I.C. 504.832(1)(b)(4)(*violation of the duty of care*);
- f. Receipt of a benefit to which the director was not entitled I.C. 504.832(1)(b)(5)(*violation of the duties of good faith, loyalty*).